



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/681,193

10/09/2003

Cheryl L. Panasik

71-837-1

7880

7590

07/20/2006

Steven W. Weinrieb
SCHWARTZ & WEINRIEB
Crystal Plaza One, Suite 1109
2001 Jefferson Davis Highway
Arlington, VA 22202

EXAMINER

ACKUN, JACOB K

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,193

Applicant(s)

PANASIK ET AL.

Examiner

Jacob K. Ackun Jr.

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10, 12-18, 20-28 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8, 10, 20-24, 32 and 34 is/are allowed.
- 6) ☒ Claim(s) 12-18, 25-28 and 33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Art Unit: 3723

1. The drawings are objected to under the appropriate Rules since they do not show all of the features of the claims. The drawings should show all of the choices in the Markush grouping in claims such as claim 14 or the feature(s) should be deleted from the claims.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 28 is finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 28 is inconsistent with the claims from which claim 28 depends.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3723

6. Claims 12-18 and 33 are finally rejected under 35 U.S.C. 102(b or e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Reiland, Brown et al, Daoud, Ansingh, Payne, Bradshaw, Whitney, Zayat Jr., Parsons or Barmore (all cited by the examiner). The applied references are considered to clearly indicate that neither a threaded screw fastener having a dual drive means nor a tool having means thereon to drive one or both of the dual drive means of the fastener is the invention of the applicant. Moreover, even if not expressly recited in a particular reference it would have been obvious for the convenience of a user of the tools to provide the inventions of the prior art with any missing features such as rounded surfaces, a matching tool to drive a particular fastener, a matching fastener for a particular tool, a Phillips drive means on a fastener or on the tool to drive the fastener, washer members or a hexagonally configured drive on either fastener or tool therefor. Each of these features by itself is conventional in the relevant art as some of the cited references clearly show.

7. Claims 25-28 are rejected under 35 U.S.C. 102(b or e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Grossberndt et al, Koenig et al, Schuster or Lee et al, (again as cited by the examiner). Each reference teaches fasteners with forward and rearward flank portions and with at least inner and outer portions for each of the forward and rearward flank portions, the inner and outer portions having the angular relationships claimed. Additionally the references teach some of the flank portions having angles of substantially zero.

8. Applicant's arguments filed on 05/10/06 have been fully considered but they are not persuasive. Regarding the objection to the drawings the applicants argue that the drawings are adequate as presented because they show the hexagonal and Phillips head drive means and in addition the other drive means claimed are well known in the art. These arguments are

unconvincing because the drawings do not show all of the various drive means claimed as clearly required by the Rules. For example only, with regard to the claims to the fastener no drawing shows a square drive as clearly recited in claim 10. In another example only, no drawing shows Torx drive means on a rotary tool as clearly recited in claim 14. Moreover, although these drive means may be per se conventional, as argued by applicants, the combinations in which they are claimed are of course not presumed to be conventional. Accordingly, there is no drawing that shows the noted Torx drive means in the combination recited in claims 14 and 33, including the structure of the dome-shaped surface portion on which the applicants are also relying for patentability.

The arguments relating to the rejection for indefiniteness are also unconvincing as to claim 28. The applicants note that 0 degrees is an angle. More accurately it is a value of an angle that is zero, ie, there is no angle. In any event the claim is considered to be inconsistent with the claims from which it depends. For example only, if the first flank surface has an angle of 0 degrees, how can it be a flank surface? How could it be part of a flank surface that extended substantially perpendicularly (90 degrees as argued by applicants), when the only other part of the flank surface, the second rearward flank surface, could also be 0 degrees or even one degree?

As to the arguments relating to the rejections over the prior art the examiner responds as follows. Barmore, Whitney and Bradshaw are not the only references that disclose a socket member. For example, Zayat also discloses a socket member in which pins 76 conform to the shape of a fastener head with which the socket member is used. See also the digest in which this reference is classified for additional prior art showing the concept to be notorious. Additionally, as noted by applicants themselves a dome shaped fastener head is per se conventional. Since

many of these fastener heads are intended to be engaged by an enveloping prior art socket member of some tool to drive the fastener, it would have been obvious (based only on the shape of the fastener heads and the fact that they have to be engaged to be driven by the socket) to shape the interior surfaces of the sockets to match the shapes of the fastener heads, so that the socket (and fastener) could work as intended. See the rejection itself. As to the rejections of claims 25-28 the applied references are considered to show flank surfaces as claimed. Applicant is requested to keep in mind that per at least claim 28 the appropriate flank surfaces could include angles of 0 degrees ie., no angular value with the shank.

9. Amended claims 2-8, 10 and 32 and 20-24 and 34 are allowed.

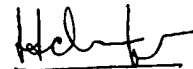
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob K. Ackun Jr. whose telephone number is (571)272-4418. The examiner can normally be reached on Monday through Friday 8.30AM-5.00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571)272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jacob K. Ackun Jr.
Primary Examiner
Art Unit 3723

J.A.